

VIRGINIA A. LEONOR, PETITIONER, VS. COURT OF APPEALS, HON. ROLINDO D. BELDIA, JR., AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT OF SAN CARLOS CITY, BRANCH 57, AND MAURICIO D.

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G.R. No. 112597. April 02, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Is a judgment voiding a marriage and rendered by the regional trial court under Rule 108 of the Rules of Court valid and proper? May its validity be challenged by the wife in a petition for certiorari against the husband who abandoned her and who is now living abroad with a foreign woman?

These are the two main issues that were posed before this Court in this petition for review seeking a partial reversal of the Decision[1] of the Court of Appeals[2] promulgated September 30, 1993 in CA-G.R. SP No. 30606 and its Resolution[3] promulgated November 11, 1993, which denied petitioner's motion for partial reconsideration of the Decision.

The Facts

Petitioner Virginia A. Leonor was married to private respondent Mauricio D. Leonor, Jr., in San Carlos City on March 13, 1960. Out of the union, three children, Mauricio III, Ned and Don, were born. The spouses were separated for a substantial part of their married life for, while Mauricio resided in Switzerland studying and working, Virginia stayed in the Philippines working as a nurse in Laguna. Mauricio became unfaithful and lived with a certain Lynda Pond abroad. This induced petitioner to institute a civil action in Geneva, Switzerland for separation and alimony. Private respondent counter-sued for divorce.

On February 14, 1991, the lower Cantonal Civil Court of Switzerland pronounced the divorce of the spouses Leonor but reserved the liquidation of the matrimonial partnership. The said Swiss Court denied alimony to petitioner. In a letter to the lower Cantonal Civil Court dated March 1, 1991, Mauricio, for the first time, raised the issue of the alleged non-existence of the marriage between him and Virginia. Meanwhile, Virginia learned that the solemnizing officer in the Philippines, Justice of the Peace Mabini Katalbas, failed to send a copy of their marriage contract to the Civil Registrar of San Carlos City for registration. Hence, on July 11, 1991, Virginia applied for the late registration of her marriage. The Civil Registrar, finding said application in order, granted the same.

On appeal to the higher Cantonal Civil Court, Mauricio asked for the cancellation of his marriage in the Philippines. On January 17, 1992, the higher Cantonal Civil Court granted petitioner alimony, prompting Mauricio to elevate the matter on appeal to the Federal Court of Switzerland. In its decision dated July 9, 1992, the Federal Court affirmed the decision of the higher Cantonal Civil Court.[4]

On May 22, 1992, Mauricio, represented by his brother Teodoro Leonor, filed a petition for the cancellation of the

late registration of marriage in the civil registry of San Carlos City with the Regional Trial Court, Branch 59, San Carlos City (Special Proceeding No. RTC- 144). Given as grounds for the cancellation were the tardiness of the registration and the nullity of his marriage with Virginia "due to the non-observance of the legal requirements for a valid marriage." Mauricio's petition was filed pursuant to Rule 108 of the Rules of Court.

After several hearings and on December 14, 1992, the trial court rendered judgment[5] declaring said marriage null and void for being sham and fictitious. The dispositive portion of said decision reads:

"AND IN THE LIGHT OF THE FOREGOING, this Court finds and orders that the registration of the marriage contract between Mauricio Leonor, Jr. and Virginia Amor dated March 13, 1960 must be canceled in (sic) the Books of the Local Civil Registry of San Carlos City for being a null and void marriage not in accordance with a (sic) New Civil Code under Articles 52, 53 and 55 now presently amended by the Family Code of the Philippines, Executive Order No. 209 as amended by Executive Order No. 227, without pronouncement as to cost."

Virginia received notice of the decision on January 4, 1993, and on January 15, 1993, she filed her notice of appeal.

On February 24, 1993, the trial court, on motion of Mauricio's counsel, issued an order[6] dismissing Virginia's appeal on the ground that she had failed to file a record on appeal within thirty days and had thus failed to perfect her appeal. It was the erroneous holding of the trial court that in special proceedings, a record on appeal was an indispensable requisite under Rule 19, Section 6 of the Interim Rules and Guidelines in relation to Rule 109 of the Rules of Court. Such failure, according to respondent Judge, caused the decision to become executory.

On April 1, 1993, Virginia filed a petition for certiorari, prohibition and mandamus with the Court of Appeals (CA-G.R. SP NO. 30606) and sought the nullification of both the decision dated December 14, 1992 and the order dated February 24, 1993 of the trial court for having been issued in excess of jurisdiction and/or with grave abuse of discretion.

The Court of Appeals dismissed the petition insofar as it sought the reversal of the decision of the trial court, saying that the remedy for said purpose was an appeal, not a special civil action.

The appellate court, however, granted the petition insofar as it sought the nullification of the Order dated February 24, 1993 dismissing the appeal. Said the appellate court:

"Even so, this petition is an appropriate remedy against the dismissal of the petitioner's appeal, which dismissal we sense to be erroneous and issued in excess of jurisdiction.

xxx xxx xxx

"WHEREFORE, judgment is hereby rendered setting aside the questioned order of respondent judge dated February 24, 1993, with instructions to the latter to give due course to petitioner's appeal in the subject special proceeding. Costs against private respondents."

Dissatisfied with the above Decision, petitioner filed a motion for partial reconsideration asking the Court of Appeals to annul the decision of the trial court. The Court of Appeals denied the motion, stating that the central issue in the special civil action was only the validity of the trial court's order denying petitioner's right to appeal and that said issue was resolved in petitioner's favor. Further, it said that the correctness or validity of the trial court's decision should properly be resolved in the appeal.

Hence, the present recourse.

Issues Raised by the Parties

The petition assailed the respondent Court's Decision and Order mentioned in the second paragraph of this Decision for alleged --

1. "Procedural Errors x x x in not finding x x x (a) that the lower court gravely abused its discretion" in recognizing the action as one for declaration of "nullity of marriage" instead of a "special proceeding for cancellation of (an) entry" in the civil registry and (b) in not finding that the "lower court had no jurisdiction (over) the issue of nullity"; and
2. "Substantive errors x x x in not finding x x x (a) that the lower court gravely erred in declaring the marriage null and void x x x and (b) x x x in disregarding the presumptions in favor of the rights of children and to the administration of the conjugal property x x x and the validity of marriage x x x."

In her Memorandum, petitioner elucidated and spiritedly argued the above grounds.

In fine, the foregoing issues could be restated as follows:

1. Did the respondent Court err in holding that petitioner should have appealed from the trial court's decision instead of filing a petition for certiorari?
2. Did the respondent Court err in refusing to decide upon the merits of the case, that is, to declare whether or not the judgment of the trial court is null and void? Should the Supreme Court now resolve the merits of the case, i.e., decide the issue of nullity of the assailed decision of the trial court?

The Court's Ruling

Since these issues are intimately intertwined, we shall discuss them together.

At the outset, it must be stressed that the Court of Appeals acted within its authority in simply ordering the trial court to give due course to petitioner's appeal without going into the merits of the case.

In *Municipality of Binan, Laguna vs. Court of Appeals*,^[7] we held:

"Respondent Court of Appeals has no jurisdiction in a certiorari proceeding involving an incident in a case to rule on the merits of the main case itself which was not on appeal before it. x x x."

In other words, the Court of Appeals has already done its duty by declaring that the lower court gravely abused its discretion or acted without jurisdiction in refusing to give due course to petitioner's appeal. Hence, it ordered said court to allow the appeal. Once appeal is perfected, the merits of the case, i.e. the validity/nullity of the trial court's decision, would then be resolved by said Court.

Understandably, the Court of Appeals has limited itself to ruling upon the procedural question lodged before it. It cannot be seriously faulted - as petitioner vehemently did - for opting to navigate within the narrow banks of the placid waters of certiorari. For in doing so, it was strictly following established legal doctrines and precedents.

Upon the other hand, the Supreme Court is not just a toothless promoter of procedural niceties which are understood and appreciated only by lawyers and jurists. It cannot shrink from its quintessential role as the fountain of speedy, adequate and substantial justice. If the Court, as the head and guardian of the judicial branch, must continuously merit the force of public trust and confidence - which ultimately is the real source of its sovereign power, possessing neither the purse nor the sword - and if it must decisively discharge its sacred duty as the last sanctuary of the oppressed and the weak, it must, in appropriate cases like the one before us, pro-actively provide weary litigants with immediate legal and equitable relief, free from the delays and legalistic contortions that oftentimes result from applying purely formal and procedural approaches to judicial dispensations.

Pursuant to the foregoing principle and considering the peculiar circumstances of the present case which are

patent on the basis of the admitted facts, as well as the undisputed copies of the pleadings presented by the parties, and especially the verified copy of the trial court's decision which loudly speaks for itself, the Court therefore resolved to make an exception to the normal procedures and to delve deeper into the substantive issue of the validity/nullity of the trial court's proceedings and judgment. Happily, both parties had expressed a desire to have this case resolved soonest. Upon the other hand, remanding the case back to the trial court for the perfection of the appeal and requiring the parties to re-litigate in the Court of Appeals with the use of probably the same documents and arguments ventilated in the kilometeric pleadings filed here would just unnecessarily clog the courts' dockets; besides, in all likelihood the parties would eventually come before this Court anyway.

Also, it must be observed that Virginia actually filed a proper Notice of Appeal which the trial court disallowed. Hence, she had no choice but to bring her petition for certiorari in the respondent Court. To constrain her to go back to said Court, this time by ordinary appeal, would be tantamount to punishing her and delaying her cause for faults not attributable to her, but rather to the manifest error of the respondent trial judge.

So, too, as will be shown shortly, the trial court's decision is really a nullity for utter want of jurisdiction. Hence, it could be challenged at any time.

It is not disputed that the original petition[8] in the trial court was for "cancellation of entry in the civil registry" of the "late registration of the marriage" between Leonor and Mauricio, "in consonance with Section 3, Rule 108 of the Rules of Court." Ground alleged for the nullity and cancellation of the marriage was "non-observance of the legal requirements for a valid marriage."

Later, on August 22, 1992, an amended petition[9] was filed adding essentially the following allegations; (a) that there was no marriage contract, (b) that the marriage was a "sham x x x to cover-up the (alleged) shame of Virginia Amor who was then pregnant," (c) that Virginia allegedly assured Mauricio that they "need not live together x x x and Mauricio need not give any support," (d) that the couple always had "trouble (and) quarrel," and (e) that Mauricio had been "transferring residence to avoid Virginia until he went abroad for good." The answer[10] of the Civil Registrar and the opposition[11] of Virginia, among others, disputed the propriety of the collateral attack against the marriage, under said Rule.

The decision[12] of the trial court is, painfully, a sophomoric and pathetic portrayal of Virginia as allegedly an "unbecoming x x x unmarried woman (who) wormed her to a (sic) heart of the matriarch of the Leonor Family x x x to summon the son Mauricio to come" to her rescue and as a scheming nurse who lured a "struggling young teacher x x x to this unwelcomed (sic) love affair." These matters, needless to say, border on the incredible, as they were brought up some thirty (30) years after the marriage was celebrated in 1960 and only after Virginia discovered her husband's infidelity. The said decision's crude attempt at literary sophistication is matched only by its jarring syntax and grammatical incongruities.[13] Insofar as this Court can figure out from the convoluted language of the decision, the trial court (a) declared the marriage null and void and (b) ordered the local civil registrar of San Carlos City to cancel its entry in the local civil registry, the sum total of which, coincidentally (and most conveniently), would enable Mauricio to show to the Swiss courts that he was never married and thus, to convince said courts to reverse their order granting alimony to his abandoned wife. Such blatant abuse and misuse of court proceedings cannot be countenanced by this Court.

The ultimate legal question therefore is this: In disposing of a special proceeding under Rule 108, did the trial court have jurisdiction to declare the marriage null and void and to order the cancellation of its entry in the local civil registry?

To contribute to the cause of clarity, Rule 108 of the Rules of Court is reproduced hereunder.

Rule 108

CANCELLATION OR CORRECTION OF ENTRIES IN THE CIVIL REGISTRY

SEC. 1. Who may file petition. - Any person interested in any act, event, order or decree concerning the civil status of persons which has been recorded in the civil register, may file a verified petition for the cancellation or correction of any entry relating thereto, with the court of First Instance of the province where the corresponding civil registry is located.

SEC. 2. Entries subject to cancellation or correction. - Upon good and valid grounds, the following entries in the civil register may be cancelled or corrected; (a) births; (b) marriages; (c) deaths; (d) legal separations; (e) judgments of annulments of marriage; (f) judgments declaring marriages void from the beginning; (g) legitimations; (h) adoptions; (i) acknowledgments of natural children; (j) naturalization; (k) election, loss or recovery of citizenship; (l) civil interdiction; (m) judicial determination of filiation; (n) voluntary emancipation of a minor; and (o) changes of name.

SEC. 3. Parties. - When cancellation or correction of an entry in the civil register is sought, the civil registrar and all persons who have or claim any interest which would be affected thereby shall be made parties to the proceeding.

SEC. 4. Notice and publication. - Upon the filing of the petition, the court shall, by an order, fix the time and place for the hearing of the same, and cause reasonable notice thereof to be given to the persons named in the petition. The court shall also cause the order to be published once a week for three (3) consecutive weeks in a newspaper of general circulation in the province.

SEC. 5. Opposition. - The civil registrar and any person having or claiming any interest under the entry whose cancellation or correction is sought may, within fifteen (15) days from notice of the petition, or from the last date of publication of such notice, file his opposition thereto.

SEC. 6. Expediting proceedings. - The court in which the proceeding is brought may make orders expediting the proceedings, and may also grant preliminary injunction for the preservation of the rights of the parties pending such proceedings.

SEC. 7. Order. - After hearing, the court may either dismiss the petition or issue an order granting the cancellation or correction prayed for. In either case, a certified copy of the judgment shall be served upon the civil registrar concerned who shall annotate the same in his record.

On its face, the Rule would appear to authorize the cancellation of any entry regarding "marriages" in the civil registry for any reason by the mere filing of a verified petition for the purpose. However, it is not as simple as it looks. Doctrinally, the only errors that can be cancelled or corrected under this Rule are typographical or clerical errors, not material or substantial ones like the validity or nullity of a marriage.[14] "A clerical error is one which is visible to the eyes or obvious to the understanding; error made by a clerk or a transcriber; a mistake in copying or writing (*Black vs. Republic*, L-10869, Nov. 28, 1958); or some harmless and innocuous change such as a correction of name that is clearly misspelled or of a mis-statement of the occupation of the parent (*Ansalada vs. Republic*, No. L-10226, Feb. 14, 1958)."[15]

Where the effect of a correction in a civil registry will change the civil status of petitioner and her children from legitimate to illegitimate, the same cannot be granted except only in an adversarial proceeding.[16] In *Vda. de Castro vs. Republic*,[17] this Court held:

x x x It has been the consistent ruling of this Court since the *Ty Kong Tin vs. Republic*, 94 Phil. 321, 'that substantial alterations, such as those affecting the status and citizenship of a person in the Civil Registry Records, cannot be ordered by the court unless first threshed out in an "appropriate action wherein all parties who may be affected by the entries are notified or represented" (see Rule 108 of the Revised Rules of Court), and that the summary proceedings under Article 412 of the Civil Code only justify an order to correct

innocuous or clerical errors, such as misspellings and the like, errors that are visible to the eyes or obvious to the understanding. (Baybayan vs. Republic of the Philippines, 16 SCRA 403)'"

Clearly and unequivocally, the summary procedure under Rule 108, and for that matter under Art. 412 of the Civil Code, cannot be used by Mauricio to change his and Virginia's civil status from married to single and of their three children from legitimate to illegitimate. Neither does the trial court, under said Rule, have any jurisdiction to declare their marriage null and void and as a result thereof, to order the local civil registrar to cancel the marriage entry in the civil registry. Further, the respondent trial judge gravely and seriously abused his discretion in unceremoniously expanding his very limited jurisdiction under such rule to hear evidence on such a controversial matter as nullity of a marriage under the Civil Code and/or Family Code, a process that is proper only in ordinary adversarial proceedings under the Rules.

A void judgment for want of jurisdiction is no judgment at all. It cannot be the source of any right nor the creator of any obligation. All acts performed pursuant to it and all claims emanating from it have no legal effect. Hence, it can never become final and any writ of execution based on it is void; "x x x it may be said to be a lawless thing which can be treated as an outlaw and slain at sight, or ignored wherever and whenever it exhibits its head." [18]

WHEREFORE, the petition is GRANTED. Judgment is hereby rendered DECLARING NULL and VOID the decision of the respondent judge dated February 14, 1992 in Special Proceedings No. RTC-144 and MODIFYING accordingly the Decision dated September 30, 1993 of the respondent Court of Appeals in CA-G.R. No. SP-30606. Let a copy of this Decision be spread in the records of respondent Judge in the Office of the Court Administrator. Costs against private respondent Mauricio D. Leonor, Jr.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 59-63.

[2] Seventeenth Division, J. Aifredo L. Benipayo, Chairman and ponente, and if. Ricardo P. Galvez and Eubulo G. Verzola, members.

[3] Rollo, p. 65.

[4] Rollo, pp. 335-343.

[5] Rollo, pp. 156-172.

[6] Rollo, pp. 173-178.

[7] 219 SCRA 69 (February 17, 1993).

[8] Rollo, pp. 81-84.

[9] Rollo, pp. 86-89; also pp. 205-209.

[10] Rollo, pp. 90-96; also pp. 210-216.

[11] Rollo, pp. 99-105; also pp. 217-223.

[12] Rollo, pp. 154-172; also pp. 245-262.

[13] The trial court's 18-page decision is too long to reproduce in toto here, but the first five paragraphs thereof, quoted absolutely verbatim below, should sufficiently illustrate the point.

DECISION

This is an action for "Cancellation of Entry in the Civil Registry" particularly on the marriage contract of one Mauricio Leonor, Jr. and Virginia Amor supposedly to have taken place in a long distance past on March 13, 1960 and after a Rip Van Winkle sleep and dormancy liken to a Mt. Pinatubo explosion that rocked the peace and quiet in the lives of the supposedly participants to this drama in Calatrava and San Carlos City, Negros Occidental when out of the blue one party in the person of an aggrieved left-behind spouse revived and revealed an ancient piece of marital bond between her and a reluctant spouse.

In the hands of a famous Penzance creator this could be written as the Case of a Reluctant Husband for such was and still is the fate of Dr. Mauricio Leonor, Jr. thirty or so many years ago while then teaching in Sudlon Agricultural School in Cebu City when he met and had a fleeting acquaintance with a pretty nurse working at ILCO hospital in Minapasok, Calatrava while visiting a hospitalized brother. Out of that whirlwind courtship, if there was one between a dashing and energetic young school teacher and a very much daring and willing young nurse, a seed was planted and the willing nurse found herself on the family way. A very resourceful woman she was and Virginia Amor made a beaten path to the door of the Leonor Family estate at Calatrava, Negros Occidental.

Virginia Amor in a figure quite unbecoming of a single unmarried woman wormed her way to a heart of the matriarch of the Leonor Family and the mother of the Mauricio Leonor, Jr., supposed author of the unborn in the womb of Virginia Amor, out of pity to a distressed woman liken to her own image, gave orders to the husband to prepare all necessary papers to give honor and name to the mother and child and to summon the son Mauricio to come and "face the music" for his amorous ventures unknowing that he was headed for a stormy marital life then and now. Like any dutiful husband, Mauricio Leonor, Sr. went to see possible persons who can solemnize marriage but none would help in their own hometown so in San Carlos City, he was able to secure the application for marriage and the license itself on a Saturday and also wired the son to come home for a family conference.

Such was the state of things obtaining at the early part of the petitioner's nightmare which this Court heard from his own lips when he took the stand and told his tale of sorrow in the arms of a woman who bore his children but no fire of love and devotion in his own heart and mind - a reluctance to a sordid state of matrimony to a woman whose family name is "Amor" but never reciprocated by the supposed other half of the conjugal partnership.

Petitioner then was a struggling young teacher in an agricultural school in Sudlon, Cebu City but by a strange stroke of fate met a young working nurse and in a short period of time then came this advance state of pregnancy to this unwelcomed love affair and Virginia presented herself to the man's family (father and mother of the petitioner) and Virginia Amor was blessed by the matriarch of the Leonors that she be saved from ignominy of being an unwed mother and when she returned to her duties at the ILCO hospital, she would have the peace of paper to prove her new status as a married employee and to her baby a father to call thereafter. That was the condition Virginia Amor begged from the family of the supposed father of the baby carried by her and the whole Leonor family prepared everything for the forthcoming marriage.

[14] Cf. Paras, Rules of Court Annotated, 1990 ed., Vol. 2, p. 449.

[15] Id., p.458.

[16] Francisco, Rules of Court, Vol V-B, 1970 ed., p. 849.

[17] 134 SCRA 12 (January 17, 1985).

[18] Banco Español-Filipino vs. Palanca, 37 Phil. 921, 949 (1918).

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